

Introduced by Senator MorrowFebruary 20, 2003

An act to add Section 854.5 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 429, as introduced, Morrow. Public utilities: acquisition or control of electrical corporations and gas corporations.

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities. The Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities.

The existing Public Utilities Act, prohibits any person or corporation from acquiring or controlling, directly or indirectly, any public utility organized and doing business in this state, including electrical corporations and gas corporations, without first securing authorization to do so from the commission. Existing law requires the commission, before authorizing the acquisition or control of an electric, gas, or telephone utility having revenues in excess of a specified amount, to consider, among other things, that the proposal provides short-term and long-term economic benefits to ratepayers, and equitably allocates the short-term and long-term forecasted economic benefits of the proposed merger, acquisition, or control, as determined by the commission, between shareholders and ratepayers, where the commission has ratemaking authority.



Pursuant to the act, the commission has authorized the formation of holding companies holding a controlling interest in certain electrical corporations and gas corporations. The commission has conditioned authorization upon the capital requirements of the electrical corporation or gas corporation being given first priority by the board of directors of the parent holding company, as determined by the commission as being necessary to meet the obligation to serve the electrical corporation or gas corporation.

This bill would provide that any corporation or person holding a controlling interest in an electrical corporation or gas corporation organized and doing business under the laws of this state, is subject to the continuing jurisdiction and power of the commission to enforce a condition placed upon any authorization obtained to acquire or control, directly or indirectly, the public utility. The bill would require that it be a condition of any authorization given a corporation or person holding a controlling interest in an electrical corporation or gas corporation, that the capital requirements of the utility, as determined by the commission to be necessary to meet the utility's obligations to serve, be given first priority. The bill would further require, when the commission determines it necessary to meet the obligation of the utility to serve, that the commission order the corporation or person holding a controlling interest in the utility, to infuse sufficient capital into the utility subsidiary, of any type deemed necessary by the commission, to enable the utility to fulfill the obligation to serve. Because a violation of the Public Utilities Act or an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 854.5 is added to the Public Utilities
2 Code, to read:



1 854.5. (a) Any corporation or person holding a controlling
2 interest in an electrical corporation or gas corporation organized
3 and doing business under the laws of this state, is subject to the
4 continuing jurisdiction and power of the commission to enforce a
5 condition placed upon any authorization obtained pursuant to
6 Section 854.

7 (b) It is a condition of any authorization given to a corporation
8 or person holding a controlling interest in an electrical corporation
9 or gas corporation organized and doing business under the laws of
10 this state, that the capital requirements of the electrical corporation
11 or gas corporation, as determined by the commission to be
12 necessary to meet the corporation's obligations to serve, shall be
13 given first priority. When determined by the commission to be
14 necessary to meet the obligation of an electrical corporation or gas
15 corporation to serve, the commission shall order a corporation or
16 person holding a controlling interest in the electrical corporation
17 or gas corporation, to infuse sufficient capital into their respective
18 utility subsidiaries, of any type deemed necessary by the
19 commission to enable the electrical corporation or gas corporation
20 to fulfill the obligation to serve.

